

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE

☐ Eastern (Jackson) DIVISION

☒ Western (Memphis) DIVISION

Justin Greer

Plaintiff,

vs.

Cummins Inc.,

Defendant.

No. _____

COMPLAINT

1. This action is brought for discrimination in employment pursuant to (check only those that apply):



Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (amended in 1972, 1978 and by the Civil Rights Act of 1991, Pub. L. No. 102-166) (race, color, gender, religion, national origin).

NOTE: In order to bring a suit in federal district court under Title VII, you must first obtain a right to sue letter from the Equal Employment Opportunity Commission.



Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621 – 634 (amended in 1984, 1990, and by the Age Discrimination in Employment Amendments of 1986, Pub. L. No. 92-592, the Civil Rights Act of 1991, Pub. L. No. 102 -166)

NOTE: In order to bring a suit in federal district court under the Age Discrimination in Employment Act, you must first file charges with the Equal Employment Opportunity Commission.



Americans with Disabilities Act of 1990, as codified, 42 U.S.C. §§ 12112 – 12117 (amended by the ADA Amendments Acts of 2008, Pub. L. No. 110-325 and the Civil Rights Act of 1991, Pub. L. No. 1102-166).

NOTE: In order to bring a suit in federal district court under the Americans with Disabilities Act, you must first obtain a right to sue letter from the Equal Employment Opportunity Commission.

JURISDICTION

2. Jurisdiction is specifically conferred upon this United States District Court by the aforementioned statutes, as well as 28 U.S.C. §§ 1331, 1343. Jurisdiction may also be appropriate under 42 U.S.C. §§ 1981, 1983 and 1985(3), as amended by the Civil Rights Act of 1991, Pub. L. No. 102-166, and any related claims under Tennessee law.

PARTIES

3. Plaintiff resides at:

9318 Gee Gee Drive
STREET ADDRESS
Desoto, Miss., 38654, (901) 481-2820
County State Zip Code Telephone Number

4. Defendant(s) resides at, or its business is located at:

2680 Pershing Ave.
STREET ADDRESS
Shelby, Memphis, TN, 38112
County City State Zip Code

NOTE: If more than one defendant, you must list the names, address of each additional defendant.

N/A

5. The address at which I sought employment or was employed by the defendant(s) is:

2680 Pershing Ave.

STREET ADDRESS

Shelby Memphis Tenn. 38112
County City State Zip Code

6. The discriminatory conduct of which I complain in this action includes *(check only those that apply)*

- ☐ Failure to hire
- ☐ Termination of my employment
- ☒ Failure to promote
- ☐ Failure to accommodate my disability
- ☒ Unequal terms and conditions of my employment
- ☐ Retaliation
- ☐ Other acts(specify): _____

NOTE: *Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court.*

7. It is my best recollection that the alleged discriminatory acts occurred on:

Date(s)

8. I believe that the defendant(s) *(check one)*:

- ☒ is still committing these acts against me.
- ☐ is not still committing these acts against me.

9. Defendant(s) discriminated against me based on my:
(check only those that apply and state the basis for the discrimination. For example, if religious discrimination is alleged, state your religion. If racial discrimination is alleged, state your race, etc.)

☒ Race African American

☐ Color _____

☐ Gender/Sex _____

☐ Religion _____

☐ National Origin _____

☐ Disability _____

☐ Age. If age is checked, answer the following:
I was born in _____. At the time(s) defendant(s) discriminated against me.

I was [] more [] less than 40 years old. (check one)

NOTE: Only those grounds raised in the charge filed the Equal Employment Opportunity Commission can be considered by the federal district court.

10. The facts of my case are as follows:

Defendant denied Plaintiff Engineering
Pay and promotion based upon
Plaintiff's Race, African American.

Defendant denied Plaintiff promotional
opportunities over his demonstrated abilities
to perform the job role

* (Attach additional sheets as necessary)

NOTE: As additional support for your claim, you may attach to this complaint a copy of the

10. **The facts of my case are as follows: (page 4 Western District Court Accepted Pro Se Complaint Form**

- a. Plaintiff is a current African American employee of defendant.
- b. Plaintiff was initially hired in 2011 in the corporate job title and role as Operator on the assembly team.
- c. Defendant promoted Plaintiff in September 2013 from shop floor operations to the corporate job title and role of Customer Quality Assurance Specialist.
- d. Plaintiff was operating in the position of Customer Quality Assurance at a pay rate of sixty six (\$66,000) thousand dollars annually at the time he made allegations of workplace discrimination.
- e. Defendant increased Plaintiff's compensation every year with his gross earnings maxing out at or around eighty thousand (\$80,000) in 2016.
- f. Plaintiff reported to Human Resources on more than one occasion his concerns for feeling singled out regarding discriminatory employment practices regarding his pay and classification.
- g. Defendant offered Plaintiff an initial offer of \$54,000 in compensation.
- h. After Plaintiff complained to Human Resources, Defendant offered him compensation of \$66,000 with a corporate demeaning "take it or leave it" disposition.
- i. Plaintiff felt that he would have been replaced had he not accepted the offer.
- j. Plaintiff was required to complete a Merck Job Questionnaire designed to confirm whether or not Plaintiff was performing under the Custom Quality Engineer profile.
- k. Defendant's own assessment tool concluded that the position role and title Plaintiff was performing under the Customer Quality Engineer profile set by the role itself.

- l. Defendant has disregarded its own Merck Job Questionnaire by still refusing to update Plaintiff's position identification and classification to Quality Engineer and its respective compensation.
- m. Defendant denied Plaintiff additional compensation after he accepted and agreed to take on responsibility of a Managerial level role.
- n. Defendant denied Plaintiff compensation due for performing additional Managerial level role in part to exclusion from overtime earnings.
- o. Defendant through its own conduct considered Plaintiff as a Customer Quality Engineer when they verbally introduce him as such in front of internal staff and external groups.
- p. Defendant through its own conduct considered Plaintiff as a Customer Quality Engineer when they introduced him in written emails and local and corporate presentations as such.
- q. Plaintiff files this lawsuit after he was issued a Right to Sue from the EEOC in the matter of 490-2017-03016.
- r. Plaintiff was forced to file both an EEOC Charge of racial discrimination and this lawsuit after Defendant denied him the proper role classification and identification of Quality Engineer as well as equal Engineer salary grade compensation.
- s. Plaintiff reasonable believes and perceived that the calculation or assessment of the role of Quality Engineer should be determined by classification and salary range.
- t. Defendant required Plaintiff to perform and implement the same duties that a Quality Assurance Engineer in his position of Customer Quality Assurance Leader.

4B.

- u. Plaintiff has been denied professional pay and benefits where Defendant refuses to adequately and properly assign Plaintiff's position.
- v. Defendant denied Plaintiff professional pay, compensation, promotional opportunities, retirement benefits and increased variable compensation/profit sharing structure (bonus).
- w. Plaintiff applied for the Senior Quality Engineer role to gain the appropriate pay by moving into tier/compensation class 2.
- x. Defendant's own management caused Plaintiff to rescind his application when Sanjeev Khot discouraged and advised Plaintiff that the Senior Quality Engineer position would not afford him any additional compensation.
- y. Defendant inappropriately and disproportionally compensates African American employees that non-African American employees by underpaying and not promoting them the way they compensate and promote Caucasian employees.
- z. Defendant hires and places non-African American employees with no background or experience in their roles and they are granted advancement over Plaintiff and other African American employees.
- aa. Defendant's methodologies used to determine appropriate compensation is discriminatory in its impact because the process/methodology used to determine if an Engineer position with clear defined responsibility could be adjusted into an office role and exempt of appropriate compensation class is flawed.
- bb. Defendant denied Plaintiff the promotional opportunity of Warranty Manager at the Managerial level despite his demonstration of actually performing the warranty tasks at the same time he performed his duties as Customer Quality Engineer.

4c.

- cc. Defendant made a personnel decision to dissolve the promotional opportunity of Warranty Manager rather than placing Plaintiff in a managerial level instead of an entry level.
- dd. Defendant deliberately, intentionally and discriminatorily classifies Plaintiff as a Customer Quality Assurance rather than Customer Quality Engineer.
- ee. Defendant denied and rejected Plaintiff 'request three times to gain managerial experience to lead a team.
- ff. Defendant routinely denied Plaintiff the opportunity to display his capability or sharpen his leadership skills.
- gg. Defendant granted non -African American co -workers of Plaintiff the opportunity to gain managerial experience to lead a team.
- hh. Defendant granted non -African American co -workers of Plaintiff the opportunity to to display their capability or sharpen their leadership skills.

Y.D.

charge filed with the Equal Employment Opportunity Commission or the Tennessee Human Rights Commission.

11. It is my best recollection that I filed a charge with the Tennessee Human Rights Commission regarding defendant's alleged discriminatory conduct on: _____
12. It is my best recollection that I filed a charge with the Equal Employment Opportunity Commission regarding defendant's alleged discriminatory conduct on: _____.
Date

Only litigants alleging age discrimination must answer Question #13.

13. Since filing my charge of age discrimination with the Equal Employment Opportunity Commission regarding defendant's alleged discriminatory conduct. *(check one)*:

- ☐ 60 days or more have elapsed
- ☐ Less than 60 days have elapsed.

14. The Equal Employment Opportunity Commission *(check one)*:

- ☐ has not issued a Right to Sue Letter.
- ☒ has issued a Right to Sue letter, which I received on May 28, 2019
Date

NOTE: This is the date you received the Right to Sue letter, not the date the Equal Employment Opportunity Commission issued the Right to Sue letter.

15. Attach a copy of the Right to Sue letter from the Equal Employment Opportunity Commission to this complaint.

NOTE: You must attach a copy of the right to sue letter from the Equal Employment Opportunity Commission.

16. I would like to have my case tried by a jury:

- ☒ Yes
- ☐ No

WHEREFORE, plaintiff prays that the Court grant the following relief:

- direct that the Defendant promote Plaintiff to Customer Quality Engineer inclusive of receiving compensation that reflects the position title.
- direct that Defendant pay Plaintiff back pay in the amount of **\$108,900** base within compensation class 02/03 and interest on back pay.
- direct that Defendant pay Plaintiff compensatory damages: **\$300,000** for emotional distress damages. emotional harm suffered including mental anguish and inconvenience. Plaintiff's emotional distress suffered was caused by the egregious outrageous discriminatory humiliating and professional degrading conduct of Defendant that resulted in significant impact on Plaintiff's emotional or physical health.
- direct that the Jury award Plaintiff **\$3.9 million** in punitive damages where they find that Defendant (1) discriminated or retaliated against the plaintiff with conscious knowledge it was violating the law, or (2) engaged in egregious or outrageous conduct from which an inference of malice or reckless indifference could be drawn. {Calculation: settlement amount and multiplied by each year that this has been pending. \$650K Times 6 (2014 - 2020) = 3.9 Million.}



SIGNATURE OF PLAINTIFF

Date: 8/12/19

9318 GEE GEE DRIVE

Address

OLIVE BRANCH, MS 38654

(901) 481-2820

Phone Number